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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/555,754

11/04/2005

Andreas Goedicke

DE 030162

2516

24737 7590 02/26/2008

PHILIPS INTELLECTUAL PROPERTY & STANDARDS

P.O. BOX 3001

BRIARCLIFF MANOR, NY 10510

EXAMINER

YUN, EUGENE

ART UNIT

PAPER NUMBER

2618

MAIL DATE

DELIVERY MODE

02/26/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/555,754	Applicant(s) GOEDICKE ET AL.	
	Examiner Eugene Yun	Art Unit 2618	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 5-10 is/are rejected.
- 7) ☒ Claim(s) 3 and 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 November 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 101***

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 9 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 9 fails to fall within a statutory category of invention. It is directed to the computer program itself, not a process occurring as a result of executing the computer program, a machine programmed to operate in accordance with the computer program nor a manufacture structurally and functionally interconnected with the computer program in a manner which enables the program to act as a computer component and realize its functionality. It's also clearly not directed to a composition of matter. Therefore it is non-statutory under 35 USC 101.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1, 2, 5-8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Esser (EP 1133119 “IDS”).

Referring to Claim 1, Esser teaches a method of establishing a wireless communication connection between a source apparatus and one of a plurality of target apparatuses (see col. 2, lines 36-39), wherein the effective range of signals used for establishing the communication connection is maintained so small that these signals connect the source apparatus only to a minimal number of target apparatuses (see col. 3, lines 12-19 noting that the “close” proximity state indicates that the range is small).

Referring to Claim 2, Esser also teaches that the source apparatus transmits search signals whose range is increased until they reach a first target apparatus (see col. 7, line 55 to col. 8, line 2) and

A communication connection is established with the target apparatus that has been reached (see col. 7, line 55 to col. 8, line 2 noting that the connection is made as a result of the adjustments made).

Referring to Claim 5, Esser also teaches the effective range of the search signals and/or the reply signals changed by changing the reception sensitivity of the receiving apparatus (see col. 7, lines 33-42 noting that the reception sensitivity is the same as the RSSI).

Referring to Claim 6, Esser also teaches the range of the communication signals of the source apparatus and/or the reached target apparatus increased after the

communication connection has been established (see col. 8, lines 14-19 noting that the adjustment can be made after the measurement of the signals according to the threshold value, which means connection is already established).

Referring to Claim 7, Esser also teaches the wireless communication connection established by means of radio signals and is preferably operated in accordance with a Bluetooth protocol (see col. 5, lines 30-35).

Referring to Claim 8, Esser also teaches a communication device 304 (fig. 3) for operating a wireless communication connection 320 (fig. 3), the communication device comprising a control unit 302 (fig. 3) and a communication module 310 and 312 (fig. 3) connected thereto, the control unit being adapted to control the communication module (see communication between 302 and 310 and 312 in fig. 3).

Referring to Claim 10, Esser also teaches a patient-monitoring system comprising a plurality of monitoring apparatuses connected to each patient (see col. 7, lines 9-15 noting the monitoring of the master side 204 and the slave side 220), and a control apparatus 302 (fig. 3) comprising a communication device 304 (fig. 3).

#### ***Allowable Subject Matter***

5. Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding Claim 3, Esser does not teach a target apparatus responding to the reception of a search signal by means of a reply signal which has a smaller range than


the range of the search signals, and a communication connection established with a target apparatus whose reply signals reach the source apparatus.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Yun whose telephone number is (571) 272-7860. The examiner can normally be reached on 9:00am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew D. Anderson can be reached on (571)272-4177. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Eugene Yun  
Examiner

Application/Control Number:  
10/555,754  
Art Unit: 2618

Page 6

Art Unit 2618

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